

UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

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MARGARET BOTKINS, CLERK
CASPER

CARLIE SHERMAN, ANNA GOZUN, AMANDA NASH, and JOHN DOE, on behalf of themselves and similarly situated persons,

Plaintiffs,

v.

Case No. 20-CV-215-SWS

TRINITY TEEN SOLUTIONS, INC., a Wyoming corporation; **TRIANGLE CROSS RANCH, LLC**, a Wyoming limited liability company; **MONKS OF THE MOST BLESSED VIRGIN MARY OF MOUNT CARMEL**, d/b/a **MYSTIC MONK COFFEE**, a Wyoming corporation; **GERALD E. SCHNEIDER**; **MICHAEELEN P. SCHNEIDER**; **ANGELA C. WOODWARD**; **JERRY D. WOODWARD**; **DANIEL SCHNEIDER**; **MATHEW SCHNEIDER**; **MARK SCHNEIDER**; **KARA WOODWARD**; **KYLE WOODWARD**; **THOMAS GEORGE**; **JUDITH D. JEFFERIS**; **DALLY-UP, LLC**, a Wyoming limited liability company; **ROCK CREEK RANCH, INC.**, a Delaware corporation; **DIOCESE OF CHEYENNE**, a Wyoming corporation; and the **SOCIETY OF OUR LADY OF THE MOST HOLY TRINITY**, a Texas corporation; and the **NEW MOUNT CARMEL FOUNDATION, INC.**, a Wyoming corporation,

Defendants.

ORDER DENYING DEFENDANTS' MOTIONS TO DISMISS AS MOOT


This matter comes before the Court on the seven motions to dismiss filed by Defendants (Docs. 72, 75, 80, 82, 91, 93, 95). In response, Plaintiffs filed an amended

complaint (Doc. 106), which added two named Plaintiffs, asserted new allegations, and amended at least one of the causes of action. (*Compare* Doc. 1 with Doc. 106.)

Plaintiffs' amended complaint was filed on February 12, 2021, as a matter of course under Fed. R. Civ. P. 15(a)(1)(B), and it is timely because the Court provided Plaintiffs through February 12, 2021, to respond to the motions to dismiss (Doc. 87). No Defendant had filed an answer. A motion to dismiss does not prevent a plaintiff from subsequently amending the complaint without the court's leave. *Breuer v. Rockwell Int'l Corp.*, 40 F.3d 1119, 1131 (10th Cir. 1994) (motion to dismiss and motion for summary judgment were not "responsive pleadings" for purposes of Rule 15(a)). Defendants' motions for dismissal were directed to the claims and allegations stated in the original complaint, but Plaintiffs' amended complaint supersedes the original complaint. *See Miller v. Glanz*, 948, F.2d 1562, 1565 (10th Cir. 1991). Consequently, the motions to dismiss are mooted by the amended complaint and will be denied without prejudice. *See Qdoba Rest. Corp. v. Taylors, LLC*, No. CIV.A08CV01179MSKKMT, 2009 WL 581549, at *1 (D. Colo. Mar. 5, 2009) (denying the defendant's motion to dismiss as moot where the plaintiff substantively amended the complaint in response).

IT IS THEREFORE ORDERED that all pending motions to dismiss filed by Defendants (Docs. 72, 75, 80, 82, 91, 93, 95) are **DENIED AS MOOT WITHOUT PREJUDICE**.

DATED: February 16, 2021.



Scott W. Skavdahl
United States District Judge